

**THE INDIANA CIVIL RIGHTS COMMISSION
311 West Washington Street
Indianapolis, Indiana 46204**

STATE OF INDIANA)
) SS
COUNTY OF MARION)

**LISA LYNN LACZI
Complainant,**

v.

Docket No. 08123

**SCHERVILLE, POLICE DEPARTMENT
Respondent.**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Comes now R, Davy Eaglesfield, III, Hearing Officer for the Indiana Civil Rights Commission ("ICRC"), and enters his Recommended Findings of Fact, Conclusions of Law, and Order, which are in words and figures as follows:

(H. I.)

And comes not either party in objection thereto pursuant to IC 4-22-1-12 and 910 IAC 1-12-1(B).

And comes now ICRC, having considered the above being duly advised in the premises and adopts the Findings of Fact, Conclusions of Law, and Order recommended by the Hearing Officer as its own.

Dated: April 18, 1980

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RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above captioned claim was the subject of an administrative hearing on November 23, 1979, in the rooms of the Indiana Civil Rights Commission before R. Davy Eaglesfield, III, Hearing Officer.

Complainant was represented by Gilbert King, Jr., and Respondent was represented by Leonard Holajter. Having considered the record, the evidence adduced at hearing, the arguments of counsel and the Complainant, the applicable law and being duly advised in the premises, the hearing officer hereby enters the following Recommended Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. The Complainant submitted an application to the police chief of Schererville for the position of patrolman.
2. At the time of the Complainant's application, there were three (3) job openings for police officers on the Schererville Police Department. The Respondent had actively advertised for persons to apply for the openings.

3. Two of the vacancies were left by officers who had trained and used the newly acquired German Shepherd dogs purchased by the City. The two officers had instructed another officer in the handling of one of the dogs, but that officer also left the department. That left the department with three job openings and no one to train or utilize the two German Shepherds.

4. There were thirty two (32) applicants who passed tests in the first stages of the hiring process. The department utilized three (3) test booklets. Booklet I was a general I.Q. test. Booklet II was entitled *Question Booklet II for Policeman*. There was another entitled, *Question Booklet Observation Test for Policeman*. All booklets were published by McCann Associates, copyright 1962. The Complainant was the only female applicant and, therefore, the only female to take the tests. She received 82.39 on the scoring of Booklets I and II. Any scoring below 70.00 failed.

5. The three male applicants, who were eventually hired had the following last names: Wesselhoft, Schultz, and DeLache. Wesselhoft scored 80.08 and 34NR (Normal Range). Schultz scored 70.07 and 34NR (Normal Range). DeLache scored 83.93 and 39BA (Better than Average).

6. Testimony showed that the test was one of three factors considered in hiring an applicant. The other two were experience and the results of a personal interview. These latter two criteria were the most influential factors in making a hiring decision.

7. The purpose of the test is to determine if an applicant is qualified to pass the courses at the police academy. A passing score is all that is required, and the higher a persons score is not determinative of whether a person is hired. In fact evidence at the hearing disclosed that ten males scored higher than the Complainant, but that only one of these was hired.

8. After an applicant has passed the test, an interview with the Police Commissioners of Schererville and the police chief is conducted. At such interviews, an applicant's application is reviewed and questions are asked.

9. The three police Commissioners make the final recommendation for the hiring of applicants.

10. At Complainant's interview, she was notified that the police department wanted to hire two dog handlers.

11. As regards Complainant's experience, she did not have any knowledge of dog training or handling. The Complainant had attended one out of two sessions on rape training with police officers of the Gary police force at Indiana University Northwest campus. She had been a rape investigator with the Gary police force for four months before she applied to the Schererville Police Department. She worked with three detectives on the Gary police force during the rape investigations. She had also assisted in child abuse cases at the time of her application. Complainant was working on a degree in sociology, and she had never had any street experience with the police, or with weapons. There is also evidence that Complainant was denied a position with two other police departments because of poor eyesight.

12. Applicants Wesselhoft and Schultz were former military policemen, who were both experienced dog handlers. Wesselhoft had completed a 36-hour Air Force Patrol dog handler's course; a 12-week patrol dog handler course and was the overall outstanding graduate in these courses. He had also completed a basic law enforcement course in the Air Force. Schultz had completed a similar 36-hour dog handler course, as well as a 250-hour course on patrol dog marijuana detection and a 160-hour course in patrol dog heroin detection, with the Air Force. Schultz also completed a 100-hour course in security police combat preparedness and a military customs inspector's course. Schultz's record shows numerous commendations as a military policeman and dog handler.

13. DeLache had been a police officer with Purdue University for two years at the time of his application and was a graduate of the Police Academy. All patrolmen pursuant to State Law must attend the academy for 10 weeks and pass the courses given during that period. The fact that DeLache was an experienced police officer, who had graduated from the Academy, meant that he was able to be assigned to patrol at least eight (8) weeks earlier than an applicant who had not graduated from the Academy.

14. Wesselhoft, Schultz and DeLache were hired by Respondent over the other applicants, including Complainant, because they were more experienced and qualified for the position available than the other applicants, including Complainant.

15. Complainant was not denied the position of patrolman because of her sex, but because the persons hired for the three available positions were better qualified and met the legitimate needs of the Respondent better than Complainant.

16. There is evidence, however, that the police chief attempted to discourage the Complainant from pursuing her application because of her sex. This occurred in an initial conversation that Complainant had with the police chief. The evidence further shows that two females have since August 1976, picked up applications for the position of patrolman, but has not returned to submit the applications. No females are now or have ever been hired by the police department as patrolmen.

17. There is evidence of a system at the Schererville Police Department that discourages females from equal opportunities to be a patrolman because of their sex, and hence, the department has engaged in an unlawful discriminatory practice.

18. Any Conclusions of Law which should have been deemed a Finding of Fact are hereby adopted as such.

CONCLUSIONS OF LAW

1. The Schererville Police Department is an employer as defined in IC 22-9-1-3(h).

2. The Schererville Police Department is a "person" as defined in IC 22-9-1-3(a).

3. Complainant is a person.

4. The Complaint was timely filed under IC 22-9-1-3©.

5. The Commission has jurisdiction over the subject matter and the parties.

6. The Schererville Police Department in 1976 engaged in an unlawful discriminatory practice because of the police chief's attempt to discourage Complainant from pursuing her application because of her sex.

8. Any Finding of Fact which should have been deemed a Conclusion of Law is hereby adopted as such.

9. Complainant was not excluded from being hired as a patrolman because of her sex, and thereby suffered no monetary loss because of sex discrimination.

ORDER

1. The Complainant, Lisa Lynn Laczi shall take nothing by way of her complaint.
2. The Schererville Police Department shall cease and desist from utilizing sexual consideration in the future employment of patrolmen and from discouraging female applicants for such position.
3. Respondent Police Department shall recruit, hire and promote qualified applicants for vacancies in the position of patrolmen without regard to the sex.
4. Respondent shall notify in writing, all persons who participate in the selection of patrolmen of the policy enumerated in Paragraph 3 above. This notice shall make it clear to the personnel that any deviation from this policy will be cause for disciplinary action including possible suspension or discharge.
5. Respondent shall, in its advertisements for the position of patrolmen, include the following:

It is the policy of the Schererville Police Department to take affirmative action to provide equal employment opportunity to all individuals regardless of their sex. This equal employment opportunity refers to all applicable department practices, including employee recruiting, hiring transferring, training, promoting, disciplining, terminating and all other conditions or privileges of employment.

The selection of persons for the position of patrolman is to be based on the qualifications and abilities required to do the job.

6. Respondent agrees to report in writing to the Indiana Civil Rights Commission when the undertakings outlined in the above paragraphs of this Order have been accomplished. The report will include copies of documents required by this Order. This report shall be submitted not later than sixty (60) days from the effective date of this Order.

7. Respondent shall submit to the Indiana Civil Rights Commission, at the end of twelve (12) months from the signing of this Order by the Commissioners, a written report that shall include:

A. A complete list of all openings for the position of patrolman, which have occurred during the preceding twelve (12) months. If no such openings have occurred, a written statement to that effect will satisfy the requirements of this provision.

B. A complete list of all persons who have applied and passed the examination for employment as a patrolman during the preceding twelve (12) months along with an indication of sex, test score, and disposition of the application from each.

C. A complete list of all postings, advertisements, agencies, and any other media or sources utilized in recruiting or soliciting applicants for employment as patrolman during the preceding twelve (12) months, along with samples of the advertisements, postings and other documents.

D. Such additional items as may be requested by the Commission and which are reasonably necessary for clarification of the above items and assurance of compliance with this Order.

8. One year from the date this Order is signed, Respondent may move to dissolve this Order. If the Director of the Commission objects within thirty (30) days of the notice of the motion, the Commission shall conduct a hearing to determine whether the motion should be granted. If the Director of the Commission fails to interpose any objections within thirty (30) days the Order shall be dissolved without a hearing or further order of the Commission.

Dated: November 29, 1979